

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARK and ELLEN MILLS,

Plaintiffs,

CIVIL ACTION NO 09-14026

v.

DISTRICT JUDGE PAUL BORMAN

LAPEER COUNTY and
DANA MILLER,

MAGISTRATE JUDGE MARK RANDON

Defendants.

**REPORT AND RECOMMENDATION TO DENY DEFENDANTS' SECOND
MOTION FOR PARTIAL SUMMARY JUDGMENT (DKT. NO. 45) AS MOOT**

Presently before the Court is Defendants Lapeer County and Dana Miller's (Defendants) second motion for partial summary judgment (Dkt. No. 45). By way of separate Opinion and Order entered simultaneously with this Report and Recommendation, the undersigned denied Plaintiffs' second motion to amend/correct the complaint (Dkt. No. 34). As such, and given Judge Borman's February 17, 2011 Opinion and Order (Dkt. No. 54), none of Plaintiffs' claims against Defendants remain legally viable and Defendants' second motion for partial summary judgment should be denied as moot. It is further recommended that the Court enter Judgment in favor of Defendants and against Plaintiffs, given the prior Orders of the Court.

The parties to this action may object to and seek review of this Report and Recommendation, but are required to act within fourteen (14) days of service of a copy hereof as provided for in 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b)(2). Failure to file specific objections constitutes a waiver of any further right of appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Secretary*

of HHS, 932 F.2d 505, 508 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981). The filing of objections which raise some issues, but fail to raise others with specificity, will not preserve all the objections a party might have to this Report and Recommendation. *See Willis v. Secretary of HHS*, 931 F.2d 390, 401 (6th Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Pursuant to E.D. Mich. LR 72.1(d)(2), a copy of any objections is to be served upon this Magistrate Judge.

Within fourteen (14) days of service of any objecting party's timely filed objections, the opposing party may file a response. The response shall be no more than 20 pages in length unless, by motion and order, the page limit is extended by the court. The response shall address each issue contained within the objections specifically and in the same order raised.

s/Mark A. Randon

Mark A. Randon

United States Magistrate Judge

Dated: March 16, 2011

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served on the attorneys and/or parties of record by electronic means or U.S. Mail on March 16, 2011.

s/Melody R. Miles

Case Manager to Magistrate Judge Mark A. Randon
(313) 234-5542